

HOUSE JOURNAL

SEVENTY-FOURTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SIXTIETH DAY — WEDNESDAY, APRIL 26, 1995

The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 223).

Present — Mr. Speaker; Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Clemons; Coleman; Combs; Conley; Cook; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbraneck.

Absent — Corte; Johnson; Place; Saunders.

The invocation was offered by Mike Matthews, pastor, Tomball United Methodist Church, Tomball, as follows:

Heavenly Father, each of us recognizes today as a day of opportunity. It may be too early to grasp the uniqueness of this Wednesday but the outcome of decisions to be made may exceed our fondest dreams.

There is something deep and everlasting within our nature that draws us to you in prayer. Help us this day to hold to you as a child grasps the hand of a parent.

You have given us the gracious gift of understanding. Assist us to see the privileges that life has brought us. Strengthen us in faith and love, so that we may face with courage and assurance the problems of every day's routine.

Give us wisdom to turn to you and understand the great lesson that he who is leader is at the same time servant.

We pray for each other. The task is great. I pray for each elected official gathered in this great house. Help them to see you through all the people of our great state. Bless their families and prosper their lives with wonderful peace and joy.

For this, dear father, let us give you all the honor and glory. Amen.

MESSAGE FROM THE SENATE

Austin, Texas, April 26, 1995

The Honorable Speaker of the House of Representatives
House Chamber

The Honorable
Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has passed the following:

HCR 157 by Harris, Jack, in memory of Pearland Mayor C. V. "Vic" Coppingier.

HCR 172 by Davila, recognizing April 22-29, 1995, as National Infant Immunization Week.

HB 840 by Denny, Madden, McCall, Driver, et al. (Sponsor-Brown), relating to the enforcement of the limitation on the amount that certain municipalities may retain from amounts collected for traffic violations (amended).

Local and Uncontested Bills

HB 335 by Uher (Sponsor-Patterson, Jerry), relating to the period for filing a petition for a place on the ballot for the board of directors of the Sweeny Hospital District.

HB 338 by Counts (Sponsor-Haywood), relating to the authority of the Stamford Hospital District to borrow money.

HB 432 by Jackson (Sponsor-Patterson, Jerry), relating to the membership of the board of directors of the La Porte Area Water Authority.

HB 1250 by Cook, et al. (Sponsor-Sibley), relating to training for members of the governing boards of public institutions of higher education.

HB 1304 by Torres (Sponsor-Ellis), relating to the management of petty cash in counties with a population greater than 2,000,000.

HB 1353 by Crabb (Sponsor-Patterson, Jerry), relating to the bonding or insurance requirements of a political subdivision for the issuance of certain plumbing permits.

HB 1907 by Carona (Sponsor-Lucio), relating to depositories for county public funds, trust funds, and court registry funds.

SB 118 by Harris, Chris, relating to a municipality's access to criminal history record information about applicants for employment.

SB 375 by Harris, Chris, relating to the creation of municipal courts of record in Pantego.

SB 516 by Henderson, relating to approval of and objection to assignment of certain visiting judges.

SB 612 by Luna, Gregory, and Madla, relating to certain nursing home services funded through the state Medicaid program.

SB 1032 by Harris, Chris, relating to encumbrances that may be fixed on homestead property.

SB 1146 by Lucio, relating to citrus fruit maturity standards.

SB 1148 by Madla, relating to the retirement system for police officers and firefighters in certain municipalities.

SB 1173 by Lucio, relating to establishing a citrus budwood certification program for the designation of foundation groves containing citrus trees from which citrus budwood is certified as free of certain pathogens and as to type of citrus variety; providing penalties.

SB 1296 by Cain, relating to the notice of a proposed rule requirement in the Administrative Procedure Act.

SB 1344 by Gallegos, relating to the authority of the attorney general to contract for goods and services subject to taxation as costs in a suit.

SB 1443 by Brown, relating to administrative licensing.

I am directed by the Senate to inform the House that the Senate has refused to concur in House Amendments to **SB 68** and requests the appointment of a Conference Committee to adjust the differences between the two Houses.

The following have been appointed on the part of the Senate: Senator West, Chair, Senator Cain, Senator Whitmire, Senator Brown, and Senator Moncrief.

Respectfully,
Betty King
Secretary of the Senate

(Place and Saunders now present)

CAPITOL PHYSICIAN

Speaker Laney presented Dr. Leonard Paul of San Antonio as the "Doctor for the Day."

The house welcomed Dr. Paul and thanked him for his participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

SIGNED BY THE SPEAKER

The speaker signed in the presence of the house, after giving due notice thereof, the following enrolled bills and resolutions:

HB 736, HB 2049, HB 2050, HCR 64, HCR 165

HR 653 - ADOPTED

Representative Delisi moved to suspend all necessary rules to take up and consider at this time **HR 653**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Delisi,

HR 653, Honoring Dr. Marvin R. Felder.

The resolution was adopted.

HOUSE BILLS ON FIRST READING

The following house bills were today laid before the house, read first time, and referred to committees:

By Bailey,

HB 3223, A bill to be entitled An Act relating to the administration, powers, and duties of the Greater Greenspoint Management District and political subdivisions contracting with the District.

To Committee on State Affairs.

By Howard,

HB 3224, A bill to be entitled An Act relating to the board of directors of the Fort Bend Subsidence District.

To Committee on Natural Resources.

By Zbranek, et al.,

HB 3225, A bill to be entitled An Act relating to the creation, administration, powers, duties, operation, and financing of the Pine Island Bayou Stormwater Control District.

To Committee on Natural Resources.

RESOLUTIONS REFERRED TO COMMITTEES

The following resolutions were laid before the house and referred to committees:

By Johnson,

HCR 176, Designating the mayhaw as an official State Crop of Texas.

To Committee on State, Federal, and International Relations.

By B. Hunter and Chisum,

HCR 178, Designating the longhorn the official Large State Mammal of Texas and the armadillo the official Small State Mammal of Texas.

To Committee on State, Federal, and International Relations.

By Sadler,

HR 681, Honoring the Overton High School Band.

To Committee on Rules and Resolutions.

By Maxey,

HR 682, Honoring Nereida Samuda Zimic.

To Committee on Rules and Resolutions.

By Alonzo,

HR 684, Honoring the Multi-Ethnic Heritage Foundation's CUP Awards.

To Committee on Rules and Resolutions.

By Coleman,

HR 687, Honoring Clara M. Anthony.

To Committee on Rules and Resolutions.

By Coleman,

HR 688, Honoring the Carrier-Hollier Family Reunion.

To Committee on Rules and Resolutions.

SENATE BILLS ON FIRST READING

The following senate bills were today laid before the house, read first time, and referred to committees:

SB 170 to Committee on Public Education.
SB 313 to Committee on Judicial Affairs.
SB 372 to Committee on Agriculture and Livestock.
SB 866 to Committee on Criminal Jurisprudence.
SB 929 to Committee on Public Health.
SB 953 to Committee on Natural Resources.
SB 1049 to Committee on Criminal Jurisprudence.
SB 1060 to Committee on County Affairs.
SB 1125 to Committee on Environmental Regulation.
SB 1223 to Committee on Transportation.
SB 1252 to Committee on Public Safety.
SB 1260 to Committee on Financial Institutions.
SB 1357 to Committee on Energy Resources.
SB 1431 to Committee on Public Health.
SB 1488 to Committee on Public Health.
SB 1551 to Committee on Energy Resources.
SB 1604 to Committee on Public Health.
SB 1605 to Committee on Business and Industry.
SB 1620 to Committee on State Affairs.
SB 1632 to Committee on Land and Resource Management.
SB 1644 to Committee on State Affairs.

SENATE JOINT RESOLUTIONS ON FIRST READING

The following senate joint resolutions were today laid before the house, read first time, and referred to committees:

SJR 26 to Committee on Judicial Affairs.
SJR 43 to Committee on Criminal Jurisprudence.
SJR 51 to Committee on Financial Institutions.

RESOLUTION REFERRED TO COMMITTEE

The following resolution was laid before the house and referred to committee:

SCR 132, Commending the life and the career of Judge Abner McCall on the occasion of his 80th birthday.

To Committee on Rules and Resolutions.

HR 686 - ADOPTED

Representative Gutierrez moved to suspend all necessary rules to take up and consider at this time **HR 686**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Gutierrez,

HR 686, Designating April 26, 1995, as City of Pharr Day at the Capitol.

The resolution was read and was adopted without objection.

On motion of Representative R. Cuellar, the names of all the members of the house were added to **HR 686** as signers thereof.

(Johnson now present)

HJR 132 - PERMISSION TO INTRODUCE

Representatives Craddick and Black moved to suspend the constitutional rule for permission to introduce and have placed on first reading **HJR 132**.

A record vote was requested.

The motion prevailed by (Record 224): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Clemons; Coleman; Combs; Conley; Cook; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent — Alvarado; Corte; Danburg; Jones, D.; Naishtat.

(Corte now present)

HB 3226 - PERMISSION TO INTRODUCE

Representative Berlanga moved to suspend the constitutional rule for permission to introduce and have placed on first reading **HB 3226**.

A record vote was requested.

The motion prevailed by (Record 225): 145 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Clemons; Coleman; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culbertson; Danburg; Davila; De La Garza; Dear; Delisi; Denny; Driver; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbraneck.

Present, not voting — Mr. Speaker(C).

Absent — Averitt; Davis; Jones, D.; Serna.

HCR 180 - ADOPTED

Representative Willis moved to suspend all necessary rules to take up and consider at this time **HCR 180**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Willis,

HCR 180, Honoring Lieutenant General Everett Seldon Simpson.

The resolution was adopted without objection.

HCR 179 - ADOPTED

Representative Willis moved to suspend all necessary rules to take up and consider at this time **HCR 179**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Willis,

HCR 179, In memory of the Honorable Phillip LaFrance Willis.

The resolution was read and was unanimously adopted by a rising vote.

On motion of Representatives B. Hunter and Uher, the names of all the members of the house were added to **HCR 179** as signers thereof.

(Stiles in the chair)

HR 693 - ADOPTED

Representative Greenberg moved to suspend all necessary rules to take up and consider at this time **HR 693**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

By Greenberg,

HR 693, Designating April 23-29, 1995, the Week of the Young Child.

The resolution was read and was adopted without objection.

SB 482 - REQUEST OF SENATE GRANTED

On motion of Representative Berlanga, the house granted the request of the senate for the appointment of a conference committee on **SB 482**.

SB 482 - APPOINTMENT OF CONFERENCE COMMITTEE

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 482**: Berlanga, chair, Naishtat, Chisum, McDonald, and Glaze.

HB 889 - WITH SENATE AMENDMENT

Representative Marchant called up with a senate amendment for consideration at this time

HB 889, A bill to be entitled An Act relating to a prohibition on merger transactions involving out-of-state banks and a prohibition on interstate branches.

On motion of Representative Marchant, the house concurred in the senate amendment to **HB 889**.

HB 889 - TEXT OF SENATE AMENDMENT**Senate Amendment No. 1 (Senate Committee Amendment No. 1)**

Amend **HB 889** by adding a new SECTION 3 to read as follows, and renumbering the remaining SECTIONs accordingly:

SECTION 3. This act shall expire September 2, 1999.

CSSB 178 ON SECOND READING

(Chisum - House Sponsor)

The chair laid before the house, as postponed business, on its second reading and passage to third reading, the complete committee substitute for **SB 178**.

CSSB 178, A bill to be entitled An Act relating to the delay of the vehicle emission inspection and maintenance program.

CSSB 178 was read second time on April 24 and was postponed until 10 a.m. today.

Representative Chisum moved to postpone consideration of **CSSB 178** until 2 p.m. today.

The motion prevailed without objection.

SB 699 ON THIRD READING
(Patterson - House Sponsor)

The chair laid before the house, on its third reading and final passage,

SB 699, A bill to be entitled An Act relating to the farm and ranch finance program.

The bill was read third time and was passed.

SB 9 ON SECOND READING
(Gray - House Sponsor)

The chair laid before the house, on its second reading and passage to third reading, the complete committee substitute for **SB 9**.

CSSB 9, A bill to be entitled An Act relating to the functions and systems and programs administered by the Teacher Retirement System of Texas.

CSSB 9 was read second time.

(Speaker in the chair)

Amendment No. 1

Representative Gray offered the following amendment to **CSSB 9**:

Amend **CSSB 9** as follows:

(1) Between existing SECTIONS 15 and 16 of the bill (House Committee Report, page 9, between lines 14 and 15), insert the following appropriately numbered section:

SECTION __. Subchapter B, Chapter 824, Government Code, is amended by adding Section 824.1011 to read as follows:

Sec. 824.1011. DESIGNATION OF BENEFICIARY AFTER RETIREMENT. (a) A retiree who is receiving a standard service retirement annuity under Section 824.203 and who marries after the date of the person's retirement may replace the annuity by selecting an optional retirement annuity under Section 824.204(c)(1), (c)(2), or (c)(5) and designating the person's spouse as beneficiary before the first anniversary of the marriage in the same manner as an annuity selection and designation of beneficiary may be made before retirement.

(b) The selection of an optional annuity and designation of a beneficiary under this section do not take effect until the first payment of the annuity that becomes due two years after the date the selection and designation are filed with the retirement system.

(c) The retirement system shall recompute the annuity of a retiree who selects an optional annuity and designates a beneficiary under this section to reflect that change and shall adjust the annuity as appropriate for early retirement and postretirement increases provided after the date of the retiree's retirement. The retirement system by rule shall provide for the recovery of the actuarial value of the difference between payments under the original and recomputed annuities by adjusting the first 60 payments of the recomputed annuity accordingly.

(d) If a retiree who selects an optional annuity and designates a beneficiary under this section dies before the change takes effect or if the designated beneficiary dies before the change takes effect, the selection of an optional annuity and designation of beneficiary have no effect.

(2) Between existing SECTIONS 71 and 72 of the bill (House Committee Report, page 51, between lines 7 and 8), insert the following appropriately numbered section:

SECTION _____. Notwithstanding Section 824.1011, Government Code, as added by this Act, a retiree of the Teacher Retirement System of Texas who is receiving a standard service retirement annuity and who married after retirement but before the effective date of that section is entitled to select an annuity and designate a beneficiary as provided by that section before September 1, 1996.

(3) Renumber sections of the bill and the cross-reference to Section 72 in SECTION 74 of the bill (House Committee Report, page 52, line 2) accordingly.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Gray offered the following amendment to **CSSB 9**:

Amend **CSSB 9** by striking SECTION 33 of the bill (House Committee Report, page 22, lines 13-23) and substituting the following:

SECTION 33. Section 825.006, Government Code, is amended to read as follows:

Sec. 825.006. SUNSET PROVISION. The board of trustees of the Teacher Retirement System of Texas is subject to review under Chapter 325 (Texas Sunset Act), but is not abolished under that chapter. The board shall be reviewed during the period in which state agencies abolished in 2007 [~~1995~~] are reviewed or, if the retirement system's operating expenses are not subject to the appropriations process on September 1, 1995, the board shall be reviewed during the period in which state agencies abolished in 1997 are reviewed. This section expires September 1, 2007 [~~1995~~].

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Gray offered the following amendment to **CSSB 9**:

Amend **CSSB 9** in SECTION 69 of the bill (House committee report, page 50, between lines 20 and 21) by adding a new Subsection (d) to read as follows:

(d) For the purpose of computing the annuity increase provided by Subsection (c) of this section for a person whose annuity is not currently based on the highest three-year average compensation, the retirement system may use compensation amounts based on current actuarial assumptions. An annuitant who so requests in writing will receive the increase computed on the greater of compensation based on current actuarial assumptions or actual compensation computed under the law in effect on January 1, 1995.

Amendment No. 3 was adopted without objection.

Amendment No. 4

Representative Madden offered the following amendment to **CSSB 9**:

Amend **CSSB 9** as follows:

(1) Between existing SECTIONS 10 and 11 of the bill (House Committee Report, page 6, between lines 16 and 17), insert the following appropriately numbered section:

SECTION _____. Section 823.401, Government Code, is amended by amending Subsections (a) and (f) and adding Subsection (j) to read as follows:

(a) Except as provided by Subsection (b), an eligible member may establish equivalent membership service credit for employment with a public school system maintained wholly or partly by another state or territory of the United States or by the United States, whether inside or outside the boundaries of the United States, for children of its citizens. For purposes of this section, a public school system maintained wholly or partly by the United States includes a school that is not operated by the United States government but has a substantial enrollment of children of American citizens and receives regular payments because of that enrollment from an agency of the United States government.

(f) The amount of service credit a member may establish under this section may not exceed:

(1) the lesser of the number of years of membership service credit the member has in the retirement system for actual service in public schools or 10 years; and

(2) if the service was performed outside the boundaries of the United States, one-fourth of the number of years of membership service credit the member has in the retirement system for actual service in public schools.

(j) If a member retires or dies and does not have at least 10 years of service credit in the retirement system for actual service in public schools that was performed after all service that was performed outside the boundaries of the United States, the retirement system shall cancel any credit for the foreign service that was established under this section and refund all deposits made for the service to the member or, if applicable, the member's beneficiary.

(2) Renumber subsequent sections of the bill and the cross-reference to Section 72 in SECTION 74 of the bill (House Committee Report, page 52, line 2) accordingly.

Representative Gray moved to table Amendment No. 4.

The motion to table prevailed.

HR 695 - ADOPTED

Representative Price moved to suspend all necessary rules to take up and consider at this time **HR 695**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Price,

HR 695, Honoring the West Tabernacle and Community Senior Citizen's Organization.

The resolution was read and was adopted without objection.

On motion of Representative Saunders, the names of all the members of the house were added to **HR 695** as signers thereof.

HR 697 - ADOPTED

Representative Brimer moved to suspend all necessary rules to take up and consider at this time **HR 697**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Brimer,

HR 697, Honoring the Mansfield High School Gold Dusters Drill Team.

The resolution was read and was adopted without objection.

On motion of Representative Goolsby, the names of all the members of the house were added to **HR 697** as signers thereof.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Agriculture and Livestock, on recess today, Desk 17, to consider **SB 1028**.

Public Health, on recess today, Desk 138.

RECESS

Representative Telford moved that the house recess until 1:30 p.m. today.

The motion prevailed without objection.

The house accordingly, at 12:06 p.m., recessed until 1:30 p.m. today.

AFTERNOON SESSION

The house met at 1:30 p.m. and was called to order by the speaker.

HCR 181 - ADOPTED

Representative Carona moved to suspend all necessary rules to take up and consider at this time **HCR 181**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Carona and McCall,

HCR 181, Honoring the late Herb Walne, Jr., and the opening of Herb's Paint & Body Shop #4.

The resolution was adopted without objection.

CSSB 9 - (pending business)

Amendment No. 5

Representative Hochberg offered the following amendment to **CSSB 9**:

Amend **CSSB 9** as follows:

(1) Strike SECTION 15 of the bill (House Committee Report, page 9, lines 4-14) and substitute the following:

SECTION 15. Section 824.101(c), Government Code, is amended to read as follows:

(c) Only one person may be designated as beneficiary of an optional retirement annuity under Section 824.204(c)(1), ~~or~~ (c)(2), or (c)(5), and a designation of beneficiary under any ~~either~~ of those options may not be made, changed, or revoked, except as provided by Section 824.1011, after the later of the date on which the retirement system makes the first annuity payment to the retiree or the date the first payment becomes due. For purposes of this section, the term "makes payment" includes the depositing in the mail of a payment warrant or the crediting of an account with payment through electronic funds transfer.

SECTION 16. Subchapter B, Chapter 824, Government Code, is amended by adding Section 824.1011 to read as follows:

Sec. 824.1011. DESIGNATION OF BENEFICIARY AFTER RETIREMENT. (a) In this section:

(1) "New beneficiary" means the most recent beneficiary designated by an annuitant under this section.

(2) "Old beneficiary" means the beneficiary preceding a new beneficiary. The term may include a person designated as beneficiary at the time of retirement.

(b) An annuitant may change a designation of beneficiary of an optional retirement annuity under Section 824.204(c)(1), (c)(2), or (c)(5) or under Section 824.308(c)(1), (c)(2), or (c)(5) at any time after retirement in the same manner as the original designation was made.

(c) A change of beneficiary made under this section does not take effect until the first payment of the annuity that becomes due two years after the date the beneficiary designation is filed with the retirement system.

(d) The retirement system shall recompute the annuity of an annuitant who makes a change of beneficiary under this section to reflect that change and shall adjust the annuity as appropriate for early retirement and postretirement increases provided after the date of the annuitant's retirement. The retirement system by rule shall provide for the recovery of the actuarial value, if any, of the difference between payments under the original and recomputed annuities by adjusting the recomputed annuity to equal the actuarial present value of the original retirement annuity as of the date the annuitant filed the change of beneficiary.

(e) If an annuitant who makes a change of beneficiary under this section dies before the change of beneficiary takes effect, the annuity is payable to the old beneficiary until the effective date of the change. If the beneficiary designated at the time of retirement dies before the change of beneficiary would take effect, the change of beneficiary has no effect.

(f) A change of beneficiary under this section is independent of and subordinate to a qualified domestic relations order issued and approved as provided by Subchapter A, Chapter 804.

(2) Renumber subsequent sections of the bill and the cross-reference to

Section 72 in SECTION 74 of the bill (House Committee Report, page 52, line 2) accordingly.

Amendment No. 5 was adopted without objection.

Amendment No. 6

Representative Shields offered the following amendment to **CSSB 9**:

Amend **CSSB 9** in SECTION 34 of the bill, in the amended Section 825.010(a)(5), Government Code, by striking "half" and substituting "one-third [half]".

Amendment No. 6 was adopted without objection.

Amendment No. 7

Representative Johnson offered the following amendment to **CSSB 9**:

Amend **CSSB 9**, on page 20, lines 11 and 12 by striking the words "have worked in private business or industry.".

Representative Gray moved to table Amendment No. 7.

The motion to table prevailed.

Amendment No. 8

Representative Johnson offered the following amendment to **CSSB 9**:

Amend **CSSB 9** as follows:

(1) Between existing SECTIONS 10 and 11 of the bill (House Committee Report, page 6, between lines 16 and 17), insert the following appropriately numbered sections:

SECTION . Subchapter E, Chapter 823, Government Code, is amended by adding Section 823.404 to read as follows:

Sec. 823.404. VOCATIONAL WORK EXPERIENCE. (a) An eligible member may establish equivalent membership service credit for vocational work experience that is creditable in the retirement system.

(b) Vocational work experience creditable in the retirement system is work, other than work for which an individual receives academic credit from an institution of higher education, that is required under rules of the State Board of Education for certification as a vocational teacher.

(c) A member eligible to establish credit under this section is one who:

(1) is or has been employed by a public school as a vocational teacher;

(2) has from an institution of higher education a degree that includes academic credit for at least 14 semester hours of vocational education courses; and

(3) has at least five years of service credit in the retirement system for actual service in public schools.

(d) A member may establish credit under this section by depositing with the retirement system for each year of vocational work experience claimed a contribution computed at the rate of 12 percent of the member's annual rate of compensation during the beginning year of employment as a vocational teacher.

(e) In addition to the contribution required by Subsection (d), a member

claiming credit under this section must pay a fee of eight percent of the required contribution compounded annually from the date of first eligibility to the date of deposit. A deposit for at least one year of credit, including the fee, must be made with an initial application for credit, and all payments for service claimed under this section must be made before retirement.

(f) A member may not establish more than two years of service credit under this section.

(g) After a member makes the deposits required by this section, the retirement system shall grant the member one year of equivalent membership service credit for each year of vocational work experience approved. The retirement system may not use service credit granted under this section in computing a member's annual average compensation.

(h) Service credit granted under this section may not be used in determining eligibility for coverage in an insurance program provided by the state.

SECTION . Section 825.307(a), Government Code, is amended to read as follows:

(a) The retirement system shall deposit in a member's individual account in the member savings account:

(1) the amount of contributions to the retirement system that is deducted from the member's compensation;

(2) the portion of a deposit made on or after resumption of membership that represents the amount of retirement benefits received;

(3) the portion of a deposit to reinstate service credit previously canceled that represents the amount withdrawn or refunded;

(4) the portion of a deposit to establish membership service credit previously waived that is required by Section 823.202(b)(1);

(5) the portion of a deposit to establish membership service credit for service performed after retirement that is required by Section 823.502(c)(3) or (c)(5);

(6) the portion of a deposit to establish military service credit required by Section 823.302(c);

(7) the portion of a deposit to establish equivalent membership service credit required by Section 823.401(d), 823.402(e)(1) or (e)(2), [or] 823.3021(f)(1), or 823.404(d); and

(8) interest earned on money in the account as provided by Subsections (b) and (c) and Section 825.313(b)(1).

SECTION . Section 825.308, Government Code, is amended to read as follows:

Sec. 825.308. STATE CONTRIBUTION ACCOUNT. The retirement system shall deposit in the state contribution account:

(1) all state contributions to the retirement system required by Section 825.404;

(2) amounts from the interest account as provided by Section 825.313(b)(5);

(3) retirement annuities waived or forfeited in accordance with Section 824.601 or 824.004;

(4) fees collected under Section 825.403(h);

(5) fees and interest for reinstatement of service credit or establishment of membership service credit as provided by Section 823.202, 823.501, or 823.502;

(6) the portion of a deposit required by Section 823.302 to establish military service credit that represents a fee; ~~and~~

(7) the portion of a deposit required by Section 823.401(e) to establish out-of-state service credit that represents a fee; and

(8) the portion of a deposit required by Section 823.404 to establish vocational work experience service credit that represents a fee.

(2) Renumber subsequent sections of the bill and the cross-reference to Section 72 in SECTION 74 of the bill accordingly.

(Black in the chair)

Representative Telford moved to table Amendment No. 8.

The motion to table prevailed.

(Speaker in the chair)

Amendment No. 9

Representative Puente offered the following amendment to **CSSB 9**:

AMEND **CSSB 9** TO READ AS FOLLOWS:

Amend **CSSB 9**, page 17 line 19 by inserting a new Section 26 to read as follows and renumbering subsequent sections accordingly:

SECTION _____. Section 824.4041(b), Government Code, is amended to read as follows:

(b) The retirement system shall:

(1) verify whether a person is eligible to receive benefits under this section:

(2) determine number of months that the person was 65 years of age or older and did not receive the monthly survivor benefit during the period beginning on the date the person remarried, if before August 31, 1979, and ending August 31, 1979, and multiply that number by \$75;

(3) determine the number of months that the person was 65 years of age or older and did not receive the monthly survivor benefit during the period beginning on the date the person remarried or September 1, 1979, whichever date is later, and ending on the last day of the month in which the person is verified as eligible for benefits under this section, and multiply that number by \$100;

(4) make payable to the eligible person in a lump sum an amount equal to the amount computed under Subdivision (2) plus the amount computed under Subdivision (3); and

(5) [(2)] if the person is eligible, make payment to the person of a monthly benefit in the amount specified in Section 824.404.

Amendment No. 9 was adopted without objection.

Amendment No. 10

Representative Corte offered the following amendment to **CSSB 9**:

Amend **CSSB 9** as follows:

1) On page 38, lines 3 through 7, delete the entire Sec. 825.514.

Representative Gray moved to table Amendment No. 10.

The motion to table prevailed.

Amendment No. 11

Representative Ogden offered the following amendment to **CSSB 9**:

Amend **CSSB 9** as follows:

(1) Between existing SECTIONS 10 and 11 of the bill (House Committee Report, page 6, between lines 16 and 17), insert the following appropriately numbered section:

SECTION _____. Subchapter E, Chapter 823, Government Code, is amended by adding Section 823.404 to read as follows:

Sec. 823.404. CREDIT FOR CERTAIN TEACHING SERVICE. (a) A retiree may establish equivalent membership service credit in the retirement system for service as an employee that would have been creditable as membership service when performed except that the person was solely employed by a public institution of higher education that as a condition of employment required the employee to be enrolled as a student in the institution.

(b) A retiree may establish credit under this section by depositing with the retirement system an amount equal to the sum of:

(1) the amount that the retiree would have contributed to the retirement system if the service had been membership service at the time it was performed;

(2) the amount that the state would have contributed to the retirement system if the service had been membership service at the time it was performed;

(3) all membership fees in effect during the period of service; and

(4) a fee of eight percent, compounded annually, of the contribution required by Subdivisions (1), (2), and (3) from the date the service was performed to the date of deposit.

(c) After a retiree makes the deposit required by Subsection (b), the retirement system shall grant the retiree the amount of service credit for which the deposit was made and recompute the retiree's annuity to include the additional service credit. An annuity as recomputed under this section becomes payable beginning with the first payment that becomes due after the recomputation.

(2) Renumber subsequent sections of the bill and the cross-reference to Section 72 in SECTION 74 of the bill (House Committee Report, page 52, line 2) accordingly.

Amendment No. 11 was adopted without objection.

Amendment No. 12

Representative Telford offered the following amendment to **CSSB 9**:

Amend **CSSB 9** as follows:

1) On page 43, line 11, add a new SECTION 60 to read as follows:

SECTION 60. Section 8(e), Insurance Code, is amended to read as follows:

(e) The trustee may contract for and make available to all retirees,

dependents, surviving spouses, and surviving dependent children optional group health insurance benefit plans in addition to basic plans. The optional coverage may include a smaller deductible, lower coinsurance, or additional categories permitted under Subsection (b) of this section to provide additional levels of coverage and benefits. The trustee may utilize a portion of funds received for Texas Public School Retired Employees Group Insurance program to offset some portion of the optional coverage. Any additional contributions for these optional plans shall be paid for by the retiree, surviving spouse, or surviving dependent children.

2) Renumber all subsequent sections.

Amendment No. 12 was adopted without objection.

Amendment No. 13

On behalf of Representative D. Jones, Representative Junell offered the following amendment to **CSSB 9**:

Amend **CSSB 9** as follows:

(1) Between existing SECTIONS 10 and 11 of the bill (House Committee Report, page 6, between lines 16 and 17), insert the following appropriately numbered section:

SECTION _____. Section 823.502, Government Code, is amended by adding Subsection (e) to read as follows:

(e) A member of the Employees Retirement System of Texas with at least 36 months of service credit in that system may resume membership in this retirement system and reestablish and establish credit under this section without holding a position included in the membership of the retirement system or meeting the service requirement provided by Subsection (b). To resume membership, a person eligible under this subsection must pay the deposit required by Subsection (c), to the extent applicable, except that the reinstatement fee is computed from the first day of the person's service under the Employees Retirement System of Texas to the date of redeposit.

(2) Renumber subsequent sections of the bill and the cross-reference to Section 72 in SECTION 74 of the bill (House Committee Report, page 52, line 2) accordingly.

Amendment No. 13 was adopted without objection.

CSSB 9, as amended, was passed to third reading.

CSSB 178 ON SECOND READING **(Chisum - House Sponsor)**

The speaker laid before the house, as postponed business, on its second reading and passage to third reading, the complete committee substitute for **SB 178**.

CSSB 178, A bill to be entitled An Act relating to delay of the vehicle emissions inspection and maintenance program.

CSSB 178 was read second time on April 24, postponed until 10 a.m. today, and again postponed until 2 p.m. today.

Representative Chisum moved to postpone consideration of **CSSB 178** until 10 a.m. Thursday, April 27.

The motion prevailed without objection.

SB 366 ON SECOND READING
(Telford - House Sponsor)

The speaker laid before the house, on its second reading and passage to third reading,

SB 366, A bill to be entitled An Act relating to the continuation and functions of the Texas State Library and Archives Commission, including the commission's involvement with the management of governmental records.

The bill was read second time.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Price, Representative Telford offered the following committee amendment to the bill:

Amend **SB 366** as follows:

(1) On page 29, line 10, strike Subsection (d) in its entirety and substitute the following new Subsection (d):

(d) Before the adoption of a records retention schedule by the commission, it must be approved by ~~[a majority of the members of]~~ the local government records committee established under Section 441.161.

(2) On page 29, line 17, add a new Section 23 to read as follows:

SECTION 23. Section 441.161, Government Code, is amended to read as follows:

Sec. 441.161. LOCAL GOVERNMENT RECORDS COMMITTEE. (a) A local government records committee shall be established to:

(1) review and approve ~~[by a majority vote of its members]~~ each of the records retention schedules prepared by the director and librarian as provided by Section 441.158;

(2) review and approve ~~[by a majority vote of its members]~~ certain rules to be considered for adoption by the commission as provided by Section 441.165; and

(3) advise the commission and the director and librarian on all matters concerning the management and preservation of local government records.

(b) In reviewing and approving records retention schedules and rules under this section, each committee member shall consider the costs of implementation and other factors that may affect local governments.

(3) On page 29, line 21, after the word "clerk", insert "or a district clerk".

(4) On page 32, line 15, after the word "who", strike "resides in" and insert "represents".

(5) On page 32, line 16, after the word "who" strike "resides in" and insert "represents".

(6) On page 34, between lines 9 and 10, add a new Section, appropriately numbered, to read as follows:

SECTION _____. Section 441.165, Government Code, is amended to read as follows:

Sec. 441.165. CERTAIN COMMISSION RULES. Rules and any revisions to the rules developed under Sections 203.048, 204.004, and 205.003, Local Government Code, must be approved by ~~[a majority of the members of]~~ the local government records committee established under Section 441.161.

(7) On page 34, line 16, between the words "entity" and "after", insert "with the approval of the local government's records management officer and".

(8) On page 36, line 4, strike Subsection (2) in its entirety and substitute the following new Subsection (2):

(2) the records management officer, in lieu of filing a records control schedule, may file with the director and librarian a written certification of compliance that the local government or the elective county office has adopted records control schedules that comply with the minimum requirements established on records retention schedules issued by the commission.

(9) On page 36, line 9, delete Subsection (b).

(10) On page 36, line 18, strike Subsection (c) in its entirety and substitute the following new Subsection (c):

(c) A records management officer, in lieu of filing an amended records control schedule, may file with the director and librarian an amended written certification of compliance that the local government or the elective county office has adopted amended records control schedules to comply with the minimum requirements established on records retention schedules issued by the commission including any revised schedules issued by the commission [At the discretion of the director and librarian and on petition from a local government or elected county officer that it will be impossible to comply fully with the requirements of Subsection (a), the director and librarian may extend the deadline for the filing of records control schedules for a period on which the director and librarian and the local government or elected county officer agree. One or more additional extensions may be granted, but in no case may the first extension and any additional extensions be for a combined period of more than three years for the same local government or elective county office].

(11) On page 37, line 8, strike Subsection (h) in its entirety and substitute the following new Subsection (h):

(h) The director and librarian shall determine the form and manner of the filing of records control schedules, ~~[and]~~ amended schedules, the written certification of compliance described by Subsection (a)(2), or the amended written certification of compliance described by Subsection (c). The director and librarian may request that the records management officer file with the written certification of compliance or the amended written certification of compliance any amendment that establishes a records series or retention requirement other than that issued on a commission records retention schedule.

(12) On page 37, line 11, delete Section 28.

(13) On page 37, line 22, strike Subsection (a) in its entirety and substitute the following new Subsection (a):

(a) If the director and librarian or the designee of the director and librarian accepts the records control schedule, ~~[or]~~ amended schedule, written certification of compliance described by Section 203.041(a)(2), or amended written certification of compliance described by Section 203.041(c) for filing, the acceptable records control schedule [it] may be used as the basis for the

destruction of records listed on it without additional notice to the director and librarian.

(14) On page 38, line 3, strike Subsection (b) in its entirety and substitute the following new Subsection (b):

(b) If the director and librarian or the designee of the director and librarian rejects the records control schedule, ~~[or] amended schedule,~~ written certification of compliance described by Section 203.041(a)(2), or amended written certification of compliance described by Section 203.041(c) for filing, the reasons for the rejection shall be stated in writing within a reasonable time to the records management officer and the schedule ~~[or], amended schedule,~~ written certification of compliance, or amended written certification of compliance shall be corrected and resubmitted.

(15) On page 38, line 12, strike Subsection (c) in its entirety and substitute the following new Subsection (c):

(c) The director and librarian or the designee of the director and librarian may reject a records control schedule or amended schedule for filing only if a retention period listed on it is less than a retention period for the same record established on a records retention schedule issued by the commission or if the schedule is in violation of this subtitle or a rule adopted under it. The director and librarian or the designee of the director and librarian may reject a written certification of compliance described by Section 203.041(a)(2) or amended written certification of compliance described by Section 203.041(c) for filing only if the records management officer files a written certification of compliance in a form and manner that has not been approved by the director and librarian.

(16) On page 38, line 25, through page 39, line 1, strike "or written declaration" and insert "or a written certification of compliance".

(17) On page 39, line 4, strike Subsection (b) in its entirety and substitute the following new Subsection (b):

(b) After the filing of a records control schedule, ~~[or an] amended schedule,~~ written certification of compliance as provided by Section 203.041(a)(2), or amended written certification of compliance as provided by Section 203.041(c), ~~[as provided by Section 203.041,]~~ a record that does not appear on a records control schedule or amended schedule ~~[accepted for filing]~~ may be destroyed only with the prior approval of the director and librarian.

(18) On page 39, lines 13 and 14, strike "or written declaration as provided by Section 203.041" and insert "or a written certification of compliance as provided by Section 203.041".

(19) Renumber the subsequent sections of the bill appropriately.

Amendment No. 1 was adopted without objection.

SB 366, as amended, was passed to third reading.

SB 776 ON SECOND READING (Junell - House Sponsor)

The speaker laid before the house, on its second reading and passage to third reading, the complete committee substitute for **SB 776**.

CSSB 776, A bill to be entitled An Act relating to an emergency appropriation from the waste tire recycling fund to the Texas Natural Resource Conservation Commission for the fiscal year ending August 31, 1995.

CSSB 776 was read second time.

Representative Junell moved to postpone consideration of **CSSB 776** until 10 a.m. Thursday, April 27.

The motion prevailed without objection.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Junell moved to suspend all necessary rules to allow the conference committee on **HB 1** to meet while the house is in session for the remainder of the session.

The motion prevailed without objection.

HR 678 - ADOPTED

Representative Nixon moved to suspend all necessary rules to take up and consider at this time **HR 678**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Nixon,

HR 678, Welcoming the Association of Chinese Organizations of Houston to the State Capitol.

The resolution was read and was adopted without objection.

On motion of Representative Hochberg, the names of all the members of the house were added to **HR 678** as signers thereof.

(Speaker pro tempore in the chair)

SB 450 ON SECOND READING **(McDonald, Haggerty, et al. - House Sponsors)**

The chair laid before the house, on its second reading and passage to third reading,

SB 450, A bill to be entitled An Act relating to regional water and wastewater planning for the County of El Paso.

The bill was read second time.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Yost, Representative McDonald offered the following committee amendment to the bill:

Amend **SB 450**, on page 7, lines 16-19, by substituting the following:
"SECTION 7. NONSURRENDER OF CHAPTER 13, WATER CODE, JURISDICTION. Nothing in this Act limits or affects, in any manner, the jurisdiction of the Texas Natural Resource Conservation Commission or any successor agency under Chapter 13, Water Code."

Amendment No. 1 was adopted without objection.

Amendment No. 2 (Committee Amendment No. 2)

On behalf of Representative Yost, Representative McDonald offered the following committee amendment to the bill:

Amend **SB 450**, on page 4, line 4, by adding the words "Subject to paragraph (c) of Section 4," before the words "Regional planning includes the following considerations:", and by changing the "R" in the word "Regional" to a lower case "r".

Amendment No. 2 was adopted without objection.

Amendment No. 3 (Committee Amendment No. 3)

On behalf of Representative R. Lewis, Representative McDonald offered the following committee amendment to the bill:

Amend **SB 450**, on page 3, line 5, by adding the words "It is not a purpose of this Act to regulate water and wastewater for Hudspeth County or Culberson County." after the words "in the management of regional water resources".

Amendment No. 3 was adopted without objection.

SB 450, as amended, was passed to third reading.

HB 1097 ON SECOND READING

The chair laid before the house, as postponed business, on its second reading and passage to engrossment,

HB 1097, A bill to be entitled An Act relating to administrative hearings for the Texas Natural Resource Conservation Commission provided by the State Office of Administrative Hearings.

HB 1097 was read second time on April 5, postponed until April 24, and again postponed until 10 a.m. today.

Representative Bosse moved to postpone consideration of **HB 1097** until 10 a.m. Friday, April 28.

The motion prevailed without objection.

SB 606 ON SECOND READING
(McDonald - House Sponsor)

The chair laid before the house, in lieu of **CSHB 1415**, on its second reading and passage to third reading, the complete committee substitute for **SB 606**.

CSSB 606, A bill to be entitled An Act relating to the detection and prevention of osteoporosis.

CSSB 606 was read second time.

Amendment No. 1

Representative Mowery offered the following amendment to **CSSB 606**:

Amend **CSSB 606** as follows:

(1) On page 1, delete lines 16-21 and substitute new Sec. 90.002 as follows:
"Sec. 90.002. OSTEOPOROSIS PROGRAM. Using existing resources, the Texas Department of Health shall educate the public on the causes of osteoporosis and the personal risk factors associated with the development of osteoporosis, publicize the value of early detection and prevention, and identify the most cost-effective options available for treatment."

Amendment No. 1 was adopted without objection.

CSHB 606, as amended, was passed to third reading. (Swinford recorded voting no)

CSHB 1415 - LAID ON THE TABLE SUBJECT TO CALL

Representative McDonald moved to lay **CSHB 1415** on the table subject to call.

The motion prevailed without objection.

CSHB 1396 ON SECOND READING

The chair laid before the house, as postponed business, on its second reading and passage to engrossment, the complete committee substitute for **HB 1396**.

CSHB 1396, A bill to be entitled An Act relating to certain reports and public records to be prepared by a personal bond office.

CSHB 1396 was read second time on April 25 and was postponed until 10 a.m. today.

Amendment No. 1

Representative Dutton offered the following amendment to **CSHB 1396**:

Amend **CSHB 1396** as follows:

1. Deleting all of new Sec. 5 and renumber new Sec. 6 as Sec. 5.

Amendment No. 1 was withdrawn.

Amendment No. 2

Representative Longoria offered the following amendment to **CSHB 1396**:

Amend **CSHB 1396** on page 1, line 12, by striking "weekly" and substituting "Quarterly"

Amendment No. 2 was adopted without objection.

CSHB 1396, as amended, was passed to engrossment.

(Speaker in the chair)

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence for the remainder of today to attend a meeting of the conference committee on HB 1:

Gallego on motion of Uher.

Junell on motion of Uher.

Delisi on motion of Uher.

Coleman on motion of Uher.

The following member was granted leave of absence temporarily for today to attend a meeting of the conference committee on HB 1:

Ogden on motion of Uher.

HJR 35 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HJR 35**.

CSHJR 35, A joint resolution proposing a constitutional amendment authorizing the governing body of a political subdivision to exempt from ad valorem taxation boats and other equipment used in the commercial taking of fish, shrimp, shellfish, and other marine life.

CSHJR 35 was read second time.

Amendment No. 1

Representative Wilson offered the following amendment to **CSHJR 35**:

Amend **CSHJR 35** as follows:

(2) On page 1, line 10, between "taking" and "of", insert "or production".

Amendment No. 1 was adopted without objection.

A record vote was requested.

CSHJR 35, as amended, was adopted by (Record 226): 135 Yeas, 4 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Clemons; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Davis; De La Garza; Dear; Denny; Driver; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Giddings; Glaze; Goodman; Goolsby; Greenberg; Grusendorf; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Swinford; Talton; Thompson; Tillery; Torres; Turner, B.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbraneck.

Nays — Danburg; Finnell; Gray; Turner, S.

Present, not voting — Mr. Speaker(C).

Absent, Excused, Committee Meeting — Coleman; Delisi; Gallego; Junell; Ogden.

Absent — Davila; Gutierrez; Luna; Stiles; Telford.

STATEMENT OF VOTE

When Record No. 226 was taken, I was in the house but away from my desk. I would have voted yes.

Davila

HJR 73 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HJR 73, A joint resolution proposing a constitutional amendment reducing the amount of general obligation bonds authorized for the issuance for undertakings related to a superconducting super collider research facility.

A record vote was requested.

The resolution was read second time and was adopted by (Record 227): 140 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Clemons; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culbertson; Danburg; Davila; Davis; De La Garza; Dear; Denny; Driver; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Willis; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused, Committee Meeting — Coleman; Delisi; Gallego; Junell; Ogden.

Absent — Gutierrez; Lewis, R.; Munoz; Williamson.

HJR 90 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HJR 90, A joint resolution proposing a constitutional amendment granting the supreme court jurisdiction to answer questions certified from the court of criminal appeals and granting the court of criminal appeals jurisdiction to answer questions certified from the supreme court.

A record vote was requested.

The resolution was read second time and was adopted by (Record 228): 139 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Clemons; Combs;

Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Denny; Driver; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Giddings; Glaze; Goodman; Goolsby; Gray; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Uher; Walker; West; Willis; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused, Committee Meeting — Coleman; Delisi; Gallego; Junell; Ogden.

Absent — Greenberg; Lewis, R.; Turner, S.; Van de Putte; Williamson.

HB 2473 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 2473, A bill to be entitled An Act relating to audits to determine compliance with certain laws, rules, and regulations; providing penalties.

The bill was read third time.

Amendment No. 1

Representative Gray offered the following amendment to the bill:

Amend **HB 2473**, second reading engrossment as follows:

On page 14, line 14, strike "the" and substitute "an".

Amendment No. 1 was adopted without objection.

A record vote was requested.

HB 2473, as amended, was passed by (Record 229): 123 Yeas, 14 Nays, 3 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Averitt; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Clemons; Combs; Cook; Corte; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Davila; Davis; De La Garza; Dear; Denny; Driver; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Giddings; Glaze; Goodman; Goolsby; Gray; Grusendorf; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hochberg; Holzheuser; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Madden; Marchant; McCall; McCoulskey; Moffat; Mowery; Munoz; Nixon; Oakley; Oliveira; Park; Patterson; Pickett;

Pitts; Place; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbranek.

Nays — Alvarado; Bailey; Conley; Hirschi; Hudson; Jones, J.; Luna; Maxey; McDonald; Moreno; Naishtat; Price; Thompson; Wilson.

Present, not voting — Mr. Speaker(C); Dukes; Greenberg.

Absent, Excused, Committee Meeting — Coleman; Delisi; Gallego; Junell; Ogden.

Absent — Counts; Danburg; Gutierrez; Williamson; Willis.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 229. I intended to vote no.

Ehrhardt

When Record No. 229 was taken, I was in the house but away from my desk. I would have voted yes.

Gutierrez

HB 1266 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 1266, A bill to be entitled An Act relating to creating an ombudsman office to represent private property owners in certain proceedings.

The bill was read third time.

Amendment No. 1

Representative Kubiak offered the following amendment to the bill:

HB 1266 second reading engrossment is amended on page 2, line 25 by inserting the following: (d) The attorney general shall establish guidelines to assist the ombudsman in selecting cases which will help establish broad precedent and case law in support of property rights.

Amendment No. 1 was withdrawn.

HB 1266 was passed. (Moffat recorded voting no)

HB 2609 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 2609, A bill to be entitled An Act relating to real property valuations for certain governmental purposes.

The bill was read third time and was passed. (Moffat recorded voting no)

HB 333 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 333, A bill to be entitled An Act relating to authorizing a deed-of-trust foreclosure after accepting a deed in lieu of foreclosure.

The bill was read third time and was passed.

HB 1048 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 1048, A bill to be entitled An Act relating to the creation of the Texas Health Care Information Council; providing civil penalties.

The bill was read third time and was passed. (Corte and Moffat recorded voting no)

HB 2877 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 2877**.

CSHB 2877, A bill to be entitled An Act relating to the renewal, amendment, or modification of certain emissions permits.

CSHB 2877 was read second time.

Representative Holzheuser moved to postpone consideration of **CSHB 2877** until 9 a.m. Wednesday, May 3.

The motion prevailed without objection.

HB 2878 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 2878**.

CSHB 2878, A bill to be entitled An Act relating to the definition of "modification of existing facility" under the Texas Clean Air Act.

CSHB 2878 was read second time.

Representative Holzheuser moved to postpone consideration of **CSHB 2878** until 9 a.m. Wednesday, May 3.

The motion prevailed without objection.

HB 238 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 238**.

CSHB 238, A bill to be entitled An Act relating to the use of assistance dogs for persons with disabilities; providing an offense.

CSHB 238 was read second time and was passed to engrossment.

HB 2467 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 2467**.

CSHB 2467, A bill to be entitled An Act relating to tuition rates at public institutions of higher education.

CSHB 2467 was read second time.

Amendment No. 1

Representative Dutton offered the following amendment to **CSHB 2467**:

Amend **CSHB 2467** by adding a new section appropriately numbered to read as follows:

SECTION _____. Section 56.033(a), Education Code, is amended to read as follows:

(a) The governing boards of institutions of higher education and the Texas State Technical College System shall cause to be set aside:

(1) ~~30~~ [for the 1991-1992 academic year, not less than nine percent nor more than 15 percent out of each resident student's tuition charge under Section 54.051 of this code as provided by the General Appropriations Act for the applicable academic year;]

~~[(2) for the 1992-1993 academic year and each subsequent academic year, not less than 15 percent nor more than 20] percent out of each resident student's tuition charge under Section 54.051 of this code [as provided by the General Appropriations Act for the applicable academic year; in specifying the percentage to be set aside for the 1991-1992 and 1992-1993 academic years, the legislature shall consider the recommendations of the Select Committee on Higher Education established by HCR 105, Acts of the 69th Legislature, Regular Session, 1985];~~

(2) ~~[(3)]~~ 10 [three] percent out of each nonresident student's tuition charge under Section 54.051 of this code;

(3) ~~[(4)]~~ 15 [six] percent out of each resident student's hourly tuition charge, and \$5.00 [~~\$1.50~~] out of each nonresident student's hourly tuition charge, for academic courses at public community and junior colleges; and

(4) ~~[(5)]~~ 15 [six] percent of hourly tuition charges for vocational-technical courses at public community and junior colleges.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Dutton offered the following amendment to **CSHB 2467**:

Amend **CSHB 2467** by adding a new section appropriately numbered to read as follows:

SECTION _____. Section 56.033(a), Education Code, is amended to read as follows:

(a) The governing boards of institutions of higher education and the Texas State Technical College System shall cause to be set aside:

(1) ~~30~~ [for the 1991-1992 academic year, not less than nine percent nor more than 15 percent out of each resident student's tuition charge under Section 54.051 of this code as provided by the General Appropriations Act for the applicable academic year;]

~~[(2) for the 1992-1993 academic year and each subsequent academic year, not less than 15 percent nor more than 20] percent out of each resident student's tuition charge under Section 54.051 of this code [as provided by the General Appropriations Act for the applicable academic year; in specifying the~~

~~percentage to be set aside for the 1991-1992 and 1992-1993 academic years; the legislature shall consider the recommendations of the Select Committee on Higher Education established by HCR 105, Acts of the 69th Legislature, Regular Session, 1985];~~

(2) [(3)] three percent out of each nonresident student's tuition charge under Section 54.051 of this code;

(3) [(4)] six percent out of each resident student's hourly tuition charge, and \$1.50 out of each nonresident student's hourly tuition charge, for academic courses at public community and junior colleges; and

(4) [(5)] six percent of hourly tuition charges for vocational-technical courses at public community and junior colleges.

Amendment No. 2 was withdrawn.

Amendment No. 3

Representative Kubiak offered the following amendment to **CSHB 2467**:

Amend **CSHB 2467** on page 3, line 3 by striking "\$1,000" and substituting the following: "\$750.00".

Amendment No. 3 was withdrawn.

Amendment No. 4

Representative Berlanga offered the following amendment to **CSHB 2467**:

Amend **CSHB 2467** by striking SECTION 4 of the bill and renumbering the remaining sections as appropriate.

Amendment No. 4 was adopted without objection.

CSHB 2467, as amended, was passed to engrossment.

HB 1567 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 1567**.

CSHB 1567, A bill to be entitled An Act relating to the operation and implementation of the correctional managed health care plan.

CSHB 1567 was read second time and was passed to engrossment.

HB 1001 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 1001**.

CSHB 1001, A bill to be entitled An Act relating to the regulation of subdivisions in economically distressed areas and the delivery of water and sewer services to economically distressed subdivisions; providing civil and criminal penalties.

CSHB 1001 was read second time.

Amendment No. 1

On behalf of Representative Combs, Representative H. Cuellar offered the following amendment to **CSHB 1001**:

Amend **CSHB 1001** as follows:

(1) On page 5, line 15, strike the "." after "divided" and insert "into one acre or less.".

(2) On page 6, line 2, insert the language "of one acre or less" in between "lots" and "intended".

(3) On page 6, line 5, insert the language "into lots of one acre or less" in between "land" and "as".

(4) On page 6, line 8, insert the language "into lots of one acre or less" in between "subdivided" and "for".

(5) On page 6, line 22, strike "five acres" and insert "one acre".

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Pickett offered the following amendment to **CSHB 1001**:

Amend **CSHB 1001** on page 15 by striking lines 25-27 and on page 16 by striking lines 1-9 and substituting the following:

Sec. 232.033. ADVERTISING STANDARDS AND OTHER REQUIREMENTS BEFORE SALE; OFFENSE. (a) Brochures, publications, and advertising of any form relating to subdivided land:

(1) may not contain any misrepresentation; and

(2) must accurately describe the availability of water and sewer service facilities and electric and gas utilities.

(b) The subdivider shall provide a copy in Spanish of all written documents relating to the sale of subdivided land under an executory contract, including the contract, disclosure notice, and annual statement required by this section and a notice of default required by Subchapter D, Property Code, if:

(1) negotiations that precede the execution of the executory contract are conducted primarily in Spanish; or

(2) the purchaser requests the written documents to be provided in Spanish.

(c) Before an executory contract is signed by the purchaser, the subdivider shall provide the purchaser with a written notice, which must be attached to the executory contract, informing the purchaser of the condition of the property that must, at a minimum, be executed by the subdivider and purchaser, be acknowledged, and read substantially similar to the following:

SUBDIVIDER'S DISCLOSURE NOTICE

CONCERNING THE PROPERTY AT (street address or legal description and city)

THIS DOCUMENT STATES THE TRUE FACTS ABOUT THE LAND YOU ARE CONSIDERING PURCHASING.

CHECK OFF THE ITEMS THAT ARE TRUE:

The property is in a recorded subdivision.

The property has water service that provides potable water.

The property has sewer service or a septic system.

The property has electric service.

The property is not in a flood-prone area.

The roads are paved.

No person other than the subdivider:

- (1) owns the property;
- (2) has a claim of ownership to the property; or
- (3) has an interest in the property.

No person has a lien filed against the property.

There are no back taxes owed on the property.

(Date)

(Signature of Subdivider)

(Date)

(Signature of Purchaser)

(d) The subdivider shall provide the purchaser with an annual statement in January of each year for the term of the executory contract. The statement must include the amount of annual interest to be charged under the contract during the next 12-month period and, if the subdivider collects from and pays property taxes for the purchaser, the amount to be collected by the subdivider during the next 12-month period.

(e) A person commits an offense if the person knowingly authorizes or assists in the publication, advertising, distribution, or circulation of any statement or representation that the person knows is false concerning any subdivided land offered for sale or lease. An offense under this section is a Class A misdemeanor.

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Staples offered the following amendment to **CSHB 1001**:

Amend **CSHB 1001** on page 21, by striking lines 8-27 and substituting the following:

Sec. 232.039. SUIT BY PRIVATE PERSON IN ECONOMICALLY DISTRESSED AREA. A person who is purchasing a residence through a contract for deed or similar conveyance in a subdivision that does not have water and sewer services as required by this subchapter and is located in an economically distressed area, as defined by Section 17.921, Water Code, in an affected county, from a subdivider, may bring suit in the district court in which the property is located to:

(1) declare the sale of the property void and require the subdivider to return the purchase price of the property; and

(2) recover from the subdivider:

(A) the market value of any permanent improvements the person placed on the property;

(B) actual expenses incurred as a direct result of the failure to provide adequate water and sewer facilities;

(C) court costs; and

(D) reasonable attorney's fees.

Amendment No. 3 was adopted without objection.

Amendment No. 4

Representative Hill offered the following amendment to **CSHB 1001**:

Amend **CSHB 1001** as follows:

(1) Add a new appropriately numbered section to read as follows:

SECTION . Sections 43.056(b) and (d), Local Government Code, are amended to read as follows:

(b) The service plan must include a program under which the municipality will provide full municipal services in the annexed area no later than ~~[4 1/2 years after]~~ the end of the period provided for making capital improvements under [effective date of the annexation, in accordance with] Subsection (d). However, under the program the municipality must provide the following services in the area within 60 days after the effective date of the annexation of the area:

- (1) police protection;
- (2) fire protection;
- (3) solid waste collection;
- (4) maintenance of water and wastewater facilities in the annexed area that are not within the service area of another water or wastewater utility;
- (5) maintenance of roads and streets, including road and street lighting;
- (6) maintenance of parks, playgrounds, and swimming pools; and
- (7) maintenance of any other publicly owned facility, building, or service.

(d) The service plan must also include a program under which the municipality will initiate the acquisition or construction of capital improvements necessary for providing municipal services adequate to serve the area. The construction shall begin within two years after the effective date of the annexation of the area and shall be substantially completed within 4-1/2 years after that date. The construction shall be substantially completed within 6 years after the date of annexation if the annexed area is an economically distressed area under Section 17.921, Water Code. The acquisition or construction of the facilities shall be accomplished by purchase, lease, or other contract or by the municipality succeeding to the powers, duties, assets, and obligations of a conservation and reclamation district as authorized or required by law. The construction of the facilities shall be accomplished in a continuous process and shall be completed as soon as reasonably possible, consistent with generally accepted local engineering and architectural standards and practices. However, the municipality does not violate this subsection if the construction process is interrupted for any reason by circumstances beyond the direct control of the municipality. The requirement that construction of capital improvements must be substantially completed within 4-1/2 or 6 years does not apply to a development project or proposed development project within an annexed area if the annexation of the area was initiated by petition or request of the owners of land in the annexed area and the municipality and the landowners have agreed in writing that the development project within that area, because of its size or projected manner of development by the developer, is not reasonably expected to be completed within that period.

(2) Renumber the remaining sections as appropriate.

Amendment No. 4 was adopted without objection.

CSHB 1001, as amended, was passed to engrossment.

HB 523 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 523**.

CSHB 523, A bill to be entitled An Act relating to stolen vehicle checkpoints near the Mexico border; relating to the jurisdiction of a magistrate to hear a stolen property disposition hearing; relating to certain information required on a certificate of title.

CSHB 523 was read second time.

Amendment No. 1

Representative De La Garza offered the following amendment to **CSHB 523**:

Amend **CSHB 523** on page 1 as follows:

(1) Strike lines 12 and 13 and substitute the following:

"(1) located within 250 yards of the actual boundary between this state and Mexico [feet of the Mexican border];".

(2) On line 15, strike "and" .

(3) On line 16, strike the period and substitute the following:

": and

(4) operated in such a manner as to only stop vehicles, tractors or implements, or equipment for which law enforcement authorities have probable cause to believe are stolen and bound for Mexico, as evidenced by broken windows or other visible signs of forced entry."

Amendment No. 1 was adopted without objection.

CSHB 523, as amended, was passed to engrossment.

HB 525 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 525, A bill to be entitled An Act relating to the requisities of a petition for the writ of habeas corpus.

The bill was read second time and was passed to engrossment.

HB 1281 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 1281, A bill to be entitled An Act relating to the operation of cable TV systems by general law municipalities.

The bill was read second time and was passed to engrossment.

HB 2505 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 2505**.

CSHB 2505, A bill to be entitled An Act relating to commercial animal feed; providing a penalty.

CSHB 2505 was read second time.

Amendment No. 1

Representative Swinford offered the following amendment to **CSHB 2505**:

CSHB 2505 is amended as follows:

(1) On page 7, line 9, reinstate subsection (6) to read as follows:

"(6) the name and percentage of any hulls, shells, screenings, straw, stalks, corncobs, or other low grade feeding materials or fillers in the feed, if any;" and re-number subsections 6, 7 and 8 accordingly.

Amendment No. 1 was adopted without objection.

CSHB 2505, as amended, was passed to engrossment.

HB 2027 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 2027**.

CSHB 2027, A bill to be entitled An Act relating to the regulation of tanning facilities; providing civil and administrative penalties.

CSHB 2027 was read second time.

Amendment No. 1

Representative Davila offered the following amendment to **CSHB 2027**:

Amend **CSHB 2027** (House Committee Report) as follows:

(1) On page 9, between lines 8 and 9, insert the following new SECTION 7 and renumber subsequent SECTIONS of the bill accordingly:

SECTION 7. Chapter 145, Health and Safety Code, is amended by adding Sections 145.0095 and 145.0096 to read as follows:

Sec. 145.0095. ISSUANCE OF PERMIT FOR CERTAIN FACILITIES PROHIBITED. (a) The department may not issue or renew a permit under Section 145.009 with respect to a facility that:

(1) is operated under a license or permit as a sexually oriented business issued in accordance with Section 243.007, Local Government Code.

(2) offers, as its primary business, a service or the sale, rental, or exhibition of a device or other item that is intended to provide sexual stimulation or sexual gratification to a customer; or

(3) is owned or operated by a person who has been convicted of an offense under Chapter 21 or 43, Penal Code, or Section 71.02(a)(3), Penal Code.

(b) The department shall revoke a permit issued with respect to a facility if the permit may not be renewed under Subsection (a).

(c) For purposes of this section, a person has been convicted of an offense if the person received community supervision for the offense after sentence is imposed or after the person enters a plea of guilty or nolo contendere and is placed on deferred adjudication.

Sec. 145.0096. CERTAIN ADVERTISING PROHIBITED. (a) A business described by Section 145.0096(a)(1) or (2) may not use the word "tan" or "tanning" in a sign or any other form of advertising.

(b) A person commits an offense if the person violates Subsection (a). Except as provided by Subsection (c), an offense under this subsection is a Class C misdemeanor.

(c) If it is shown on the trial of an offense under Subsection (b) that the person has previously been convicted of an offense under that subsection, the offense is a Class A misdemeanor.

(2) On page 18, strike lines 2-10.

(3) In the transition material in the bill, add a new SECTION, appropriately numbered, to read as follows:

SECTION _____. A person who holds a permit issued under Chapter 145, Health and Safety Code, before the effective date of this Act, and who would be ineligible for issuance of that permit under Section 145.0095, Health and Safety Code, as added by this Act, may continue to operate as a tanning facility under the permit until the permit expires. A person may not renew a permit unless, at the time of renewal, the person is eligible for renewal of the license under Section 145.0095, Health and Safety Code, as added by this Act.

Amendment No. 1 was adopted without objection.

CSHB 2027, as amended, was passed to engrossment. (Chisum and Corte recorded voting no)

HB 2098 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 2098, A bill to be entitled An Act relating to justice court juries.

The bill was read second time.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Solis, Representative Thompson offered the following committee amendment to the bill:

Amend **HB 2098** as follows: on page 1, on line 9 strike "proper officer" and insert "sheriff or constable".

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Shields offered the following amendment to the bill:

Amend **HB 2098** on page 1, between lines 19 and 20, by inserting the following:

"(c) This section applies only in a county with a population of more than 2.8 million."

Amendment No. 2 was adopted without objection.

HB 2098, as amended, was passed to engrossment.

HB 2245 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 2245**.

CSHB 2245, A bill to be entitled An Act relating to the continuation and functions of the Texas Animal Health Commission; providing administrative and criminal penalties.

CSHB 2245 was read second time and was passed to engrossment.

HB 1877 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 1877**.

CSHB 1877, A bill to be entitled An Act relating to the authority of the board of regents of The University of Texas System to delegate certain powers and duties of the board.

CSHB 1877 was read second time.

Amendment No. 1

Representative Uher offered the following amendment to **CSHB 1877**:

Amend **CSHB 1877** by adding the following as the last sentence of subsection (d) on page 2, line 21:

At least three members of the board and the chancellor of The University of Texas System shall be appointed as directors.

Amendment No. 1 was adopted without objection.

CSHB 1877, as amended, was passed to engrossment.

HB 2495 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 2495**.

CSHB 2495, A bill to be entitled An Act relating to the transfer of the Baylor College of Dentistry to The Texas A&M University System.

CSHB 2495 was read second time and was passed to engrossment.

HB 2730 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 2730, A bill to be entitled An Act relating to the expunction of certain criminal records.

The bill was read second time.

(Ogden now present)

Amendment No. 1

Representative Dutton offered the following amendment to the bill:

Amend **HB 2730** by adding the following appropriately numbered SECTIONS to read as follows and by renumbering the existing SECTIONS accordingly:

SECTION____. Article 55.02, Code of Criminal Procedure, is amended to read as follows:

Art. 55.02. PROCEDURE FOR EXPUNCTION

Sec. 1. (a) The trial court shall enter an order of expunction for a person entitled to expunction because:

- (1) the person was acquitted;
- (2) the person was pardoned; or
- (3) the offense was dismissed

~~[A person who is entitled to expunction of records and files under this chapter may file an ex parte petition for expunction in a district court for the county in which he was arrested].~~

~~(b) The attorney representing the state whose office would have prosecuted the offense shall bring a motion for expunction for a person who was arrested but against whom no indictment, complaint, or information was filed before the second anniversary of the date of the arrest. On filing of the motion, the trial court shall timely enter an order of expunction for the person [The petition must be verified and shall include the following or an explanation for why one or more of the following is not included:~~

- ~~[(1) the petitioner's:~~
 - ~~[(A) full name;~~
 - ~~[(B) sex;~~
 - ~~[(C) race;~~
 - ~~[(D) date of birth;~~
 - ~~[(E) driver's license number;~~
 - ~~[(F) social security number; and~~
 - ~~[(G) address at the time of the arrest;~~

~~[(2) the offense charged against the petitioner;~~

~~[(3) the date the offense charged against the petitioner was alleged to have been committed;~~

~~[(4) the date the petitioner was arrested;~~

~~[(5) the name of the county where the petitioner was arrested and if the arrest occurred in a municipality, the name of the municipality;~~

~~[(6) the name of the agency that arrested the petitioner;~~

~~[(7) the case number and court of offense; and~~

~~[(8) a list of all law enforcement agencies, jails or other detention facilities, magistrates, courts, prosecuting attorneys, correctional facilities, central state depositories of criminal records, and other officials or agencies or other entities of this state or of any political subdivision of this state and of all central federal depositories of criminal records that the petitioner has reason to believe have records or files that are subject to expunction].~~

Sec. 2. The court shall enter the order of expunction not later [set a hearing on the matter no sooner] than thirty days from the date of acquittal, pardon, dismissal, or filing of the motion by the attorney representing the state. The court shall include in the order a listing of each official, agency, or other entity of this state or a political subdivision of this state that there is reason to believe has any records or files that are subject to the order ~~[filing of the petition and shall give reasonable notice of the hearing to each official or agency or other entity named in the petition by certified mail, return receipt requested, and such entity may be represented by the attorney responsible for providing such agency with legal representation in other matters].~~

Sec. 3. (a) ~~[If the court finds that the petitioner is entitled to expunction of any records and files that are the subject of the petition, it shall enter an order~~

~~directing expunction and directing any state agency that sent information concerning the arrest to a central federal depository to request such depository to return all records and files subject to the order of expunction. Any petitioner or agency protesting the expunction may appeal the court's decision in the same manner as in other civil cases.]~~ When the order of expunction is final, the clerk of the court shall send a certified copy of the order by certified mail, return receipt requested, to the Department of Public Safety and to each official or agency or other entity of this state or of any political subdivision of this state named in the order ~~[that there is reason to believe has any records or files that are subject to the order]~~. The Department of Public Safety shall send a copy by certified mail, return receipt requested, of the order to any central federal depository of criminal records that there is reason to believe has any of the records, together with an explanation of the effect of the order and a request that the records in possession of the depository, including any information with respect to the proceeding under this article, be destroyed or returned to the court.

(b) All returned receipts received by the clerk from notices of the hearing and copies of the order shall be maintained in the file on the proceedings under this chapter.

Sec. 4. (a) If the state establishes that the person [petitioner] is still subject to conviction for an offense arising out of the transaction for which he was arrested because the statute of limitations has not run and there is reasonable cause to believe that the state may proceed against him for the offense, the court may provide in its order that the law enforcement agency and the prosecuting attorney responsible for investigating the offense may retain any records and files that are necessary to the investigation.

(b) Unless the person [petitioner] is again arrested for or charged with an offense arising out of the transaction for which he was arrested, the provisions of Articles 55.03 and 55.04 of this code apply to files and records retained under this section.

Sec. 5. (a) On receipt of the order, each official or agency or other entity named in the order shall:

(1) return all records and files that are subject to the expunction order to the court or, if removal is impracticable, obliterate all portions of the record or file that identify the person [petitioner] and notify the court of its action; and

(2) delete from its public records all index references to the records and files that are subject to the expunction order.

(b) The court may give the person [petitioner] all records and files returned to it pursuant to its order.

(c) If an order of expunction is issued under this article, the court records concerning expunction proceedings are not open for inspection by anyone except the person who is the subject of the order [petitioner] unless the order permits retention of a record under Section 4 of this article and the person [petitioner] is again arrested for or charged with an offense arising out of the transaction for which he was arrested. The clerk of the court issuing the order shall obliterate all public references to the proceeding and maintain the files or other records in an area not open to inspection.

(d) The clerk of the court shall destroy all the files or other records maintained under Subsection (c) of this section on the first anniversary of the date the order of expunction is issued unless the records or files were released under Subsection (b) of this section.

(e) The clerk shall certify to the court the destruction of files or other records under Subsection (d) of this section.

SECTION _____. Article 55.03, Code of Criminal Procedure, is amended to read as follows:

Art. 55.03. EFFECT OF EXPUNCTION. After entry of an expunction order:

(1) the release, dissemination, or use of the expunged records and files for any purpose is prohibited;

(2) except as provided in Subdivision 3 of this article, the person arrested ~~[petitioner]~~ may deny the occurrence of the arrest and the existence of the expunction order; and

(3) the person arrested ~~[petitioner]~~ or any other person, when questioned under oath in a criminal proceeding about an arrest for which the records have been expunged, may state only that the matter in question has been expunged.

SECTION _____. Article 55.06, Code of Criminal Procedure, is amended to read as follows:

Art. 55.06. LICENSE SUSPENSIONS AND REVOCATIONS. A court ~~[person]~~ may not order ~~[use]~~ the expunction of ~~[provisions of this chapter to expunge]~~ records relating to the suspension or revocation of a driver's license, permit, or privilege to operate a motor vehicle except as provided in Section 5(d), Article 6687b-1, Revised Statutes, or Section 2(r), Chapter 434, Acts of the 61st Legislature, Regular Session, 1969 (Article 67011-5, Vernon's Texas Civil Statutes).

SECTION _____. Articles 55.05 and 102.006, Code of Criminal Procedure, are repealed.

Representative Hartnett moved to table Amendment No. 1.

The motion to table was lost.

Amendment No. 1 failed of adoption.

Amendment No. 2

Representative Combs offered the following amendment to the bill:

Amend **HB 2730** by striking SECTION 1 of the bill and substituting a new SECTION 1 to read as follows:

SECTION 1. Chapter 55, Code of Criminal Procedure, is amended by adding Article 55.011 to read as follows:

Art. 55.011. LIMITED EXPUNCTION. (a) A person who has been arrested for the commission of an offense and is not entitled to expunction under Article 55.01 is entitled to limited expunction as described by Subsection (c) if an indictment or information charging the defendant with the commission of a felony has not been presented against the defendant for an offense arising out of the transaction for which the defendant was arrested or was presented but subsequently dismissed.

(b) A person entitled to limited expunction under this article must apply to a district court for limited expunction in the same manner as a defendant applies for expunction under Section 1, Article 55.02, and if the person applies to the court, the court shall hold a hearing in the manner provided by Section 2, Article 55.02.

(c) The effect of an order issued under this article is to require any entity having possession of records and files related to the commission of an offense to immediately send those records and files to the Department of Public Safety. The Department of Public Safety shall limit access to those records and files to criminal justice agencies having access to criminal history information under Subchapter F, Chapter 411, Government Code, and may grant access to a criminal justice agency only if the agency certifies that it will use the records and files only for law enforcement purposes.

(d) A person receiving a limited expunction order under this article may deny the occurrence of the arrest and existence of the expunction order in the same manner as a person entitled to expunction under Article 55.01.

(Janek in the chair)

Amendment No. 3

Representative Eiland offered the following amendment to Amendment No. 2:

Amend the Combs amendment to **HB 2730** as follows:

(1) On page 1, strike "substituting a new SECTION 1" and substituting "substituting new SECTIONS 1 and 2"

(2) On page 2, immediately after "expunction under Article 55.01." add the following:

SECTION 2. Chapter 55, Code of Criminal Procedure, is amended by adding Article 55.012 to read as follows:

Art. 55.012. ADDITIONAL RIGHT TO EXPUNCTION. In addition to the right of expunction granted by Article 55.01, a person is entitled to expunction if each of the following conditions exist:

(A) the person was younger than 22 years of age at the time of the commission of the offense;

(B) four years have elapsed since the date of the commission of the offense;

(C) regardless of the offense with which the person was charged, the person received deferred adjudication for a misdemeanor; and

(D) the person was released from the charge without an adjudication of guilt having been entered.

(3) Renumber existing SECTIONS accordingly.

Amendment No. 3 was adopted without objection.

(Speaker in the chair)

Representative Dutton moved to table Amendment No. 2, as amended.

The motion to table was lost.

Amendment No. 2, as amended, was adopted.

Amendment No. 4

Representative R. Cuellar offered the following amendment to the bill:

Amend **HB 2730** by adding an appropriately numbered SECTION to the bill to read as follows and by renumbering existing SECTIONS accordingly:

SECTION ____ Chapter 55, Code of Criminal Procedure, is amended by adding Article 55.07 to read as follows:

Art. 55.07. SELF-REPRESENTATION. A petitioner may represent himself or herself in any proceeding under this chapter, and a court may not require the petitioner to be represented by counsel.

Amendment No. 4 was adopted without objection.

A record vote was requested.

HB 2730, as amended, failed to pass to engrossment by (Record 230): 38 Yeas, 103 Nays, 1 Present, not voting.

Yeas — Alvarado; Bailey; Brady; Clemons; Combs; Conley; Cuellar, H.; Danburg; Davis; De La Garza; Duncan; Edwards; Ehrhardt; Eiland; Giddings; Gray; Hightower; Hirschi; Hudson; Janek; Lewis, G.; Longoria; Luna; McDonald; Mowery; Oliveira; Place; Puente; Saunders; Serna; Solis; Turner, B.; Turner, S.; Van de Putte; Willis; Wilson; Yarbrough; Zbraneck.

Nays — Alexander; Allen; Alonzo; Averitt; Berlanga; Black; Bosse; Brimer; Carona; Carter; Chisum; Cook; Corte; Counts; Crabb; Craddick; Cuellar, R.; Culbertson; Davila; Dear; Denny; Driver; Dutton; Elkins; Farrar; Finnell; Glaze; Goodman; Goolsby; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hernandez; Hilbert; Hilderbran; Hill; Hochberg; Holzheuser; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Jones, D.; Jones, J.; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, R.; Madden; Marchant; Maxey; McCall; McCoulskey; Moffat; Moreno; Munoz; Naishtat; Nixon; Oakley; Ogden; Park; Patterson; Price; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Seidlits; Shields; Siebert; Smithee; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Uher; Walker; West; Williamson; Wohlgemuth; Wolens; Woolley; Yost.

Present, not voting — Mr. Speaker(C).

Absent, Excused, Committee Meeting — Coleman; Delisi; Gallego; Junell.

Absent — Dukes; Johnson; Pickett; Pitts.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 230. I intended to vote no.

Duncan

When Record No. 230 was taken, I was in the house but away from my desk. I would have voted no.

Johnson

When Record No. 230 was taken, I was in the house but away from my desk. I would have voted yes.

Pickett

HB 1745 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 1745, A bill to be entitled An Act relating to requiring immunization for hepatitis B of certain students.

The bill was read second time.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Berlanga, Representative S. Turner offered the following committee amendment to the bill:

1. Amend **HB 1745** as follows:

SECTION 2. Immunization against hepatitis B is not required until a date specified in rules adopted by the Texas Board of Health. The rules may stagger the implementation of the requirement for immunization against hepatitis B as added by Section 1.

2. Renumber existing Section 2 of the bill to become Section 3.

Amendment No. 1 was adopted without objection.

HB 1745, as amended, was passed to engrossment.

HR 698 - ADOPTED

Representative Dukes moved to suspend all necessary rules to take up and consider at this time **HR 698**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Dukes,

HR 698, In memory of Harvey Penick.

The resolution was unanimously adopted by a rising vote.

RULES SUSPENDED

Representative Danburg moved to suspend the 5-day posting rule to allow the Committee on Elections to consider **HJR 130**.

The motion prevailed without objection.

Representative Oakley moved to suspend the 5-day posting rule to allow the Committee on Public Safety to consider **HB 2614**, **HB 3017**, **SB 47**, **SB 130**, and **SB 964**.

The motion prevailed without objection.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Elections, on adjournment today, Desk 10, to consider **HB 127**.

Corrections, on adjournment today, Desk 45, to consider **HCR 76**.

County Affairs, on adjournment today.

Natural Resources, on adjournment today, Desk 9, to consider **HB 3215**, **SB 298**, **SB 1016**, and **SB 1606**.

Civil Practices, on adjournment today.

Appropriations, Subcommittee on Emoluments, 8 a.m Thursday, April 27, E1.274, Capitol Extension.

Land and Resource Management, on adjournment today, Desk 1.

Public Health, on adjournment today, Desk 138.

Criminal Jurisprudence, Subcommittee on Assault Crimes, on adjournment today, Desk 111, to consider **HB 1941** and **SB 135**.

Licensing and Administrative Procedures, 7 p.m. today, E1.026, Capitol Extension, to consider posted bills.

Juvenile Justice and Family Issues, 30 minutes after adjournment today, E2.016, Capitol Extension.

Higher Education, Subcommittee on Tuition Exemption, on adjournment today.

ADJOURNMENT

Representative Thompson moved that the house adjourn until 10 a.m. tomorrow in memory of the Honorable Phillip LaFrance Willis, brother of Dean Willis.

The motion prevailed without objection.

The house accordingly, at 5:48 p.m., adjourned until 10 a.m. tomorrow.

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

Agriculture and Livestock - **SB 368**

Civil Practices - **HB 817**, **HB 1943**, **HB 2042**, **HB 2603**, **SB 400**

County Affairs - **HB 841**, **HB 1454**, **HB 1832**, **HB 3165**, **HB 3194**, **SB 344**, **SB 540**, **SB 748**, **SB 771**, **SB 775**, **SB 1241**

Criminal Jurisprudence - **HB 439**, **HB 1253**, **HB 1533**, **HB 1825**, **HB 1901**, **HB 2331**, **HB 2424**, **HB 2484**

Economic Development - **HB 1714**

Elections - **HB 544**

Energy Resources - **SB 271, SB 1438**

Financial Institutions - **HB 725, HB 2544, HB 3207, HR 330**

House Administration - **SB 369, SB 1070**

Human Services - **HB 1053, HB 1418, HB 2506, HB 2660**

Insurance - **HB 22, HB 164, HB 1367, HB 1933, HB 2257, HB 2635, HB 3000**

Juvenile Justice and Family Issues - **HB 1108, HB 1109, HB 2571, HB 3195**

Land and Resource Management - **HB 895, HB 2837, SB 1327, SB 1328**

Natural Resources - **HB 1989, HB 2476, HB 2510, HB 2839, HB 3185, HB 3187, HB 3192, SB 424, SB 731**

Public Health - **SB 158**

Public Safety - **HB 184, HB 368, HB 1726, HB 2261, HB 2861, SB 42**

Rules and Resolutions - **HCR 164, SCR 109, HR 592, HR 595, HR 600, HR 603, HR 604, HR 605, HR 606, HR 607, HR 608, HR 611, HR 612, HR 620, HR 621, HR 624, HR 635, HR 636, HR 637, HR 638, HR 639, HR 647, HR 652, HR 653, HR 654, HR 657**

State Affairs - **HB 52, HB 244, HB 720, HB 1330, HB 1938, HB 2304, HB 2972, HB 3052**

Transportation - **HB 24, HB 34, HB 300, HB 496, HB 1212, HB 1359, HB 1536, HB 1545, HB 1547, HB 1830, HB 2496, HB 2584, HB 2588, HB 2598, HB 2754, HB 2862, HB 2974, HB 3143**

ENGROSSED

April 25 - **HB 466, HB 514, HB 673, HB 943, HB 1366, HB 1637, HB 1824, HB 2021, HB 3003, HB 3104**

April 26 - **HB 1543, HB 2162**

ENROLLED

April 25 - **HB 2049, HB 2050, HCR 64, HCR 165**

April 26 - **HB 736**

SENT TO THE GOVERNOR

April 26 - **HB 736, HB 2049, HB 2050, HCR 64, HCR 165**

RECOMMENDATIONS OF THE TEXAS NATURAL RESOURCE CONSERVATION COMMISSION FILED WITH THE SPEAKER

April 26 - **HB 3211, HB 3213, HB 3215**